

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

GINA SCHMITTAUER
701 South Clermont Avenue
Springfield, Ohio 45505

Plaintiff,

V.

PMAB, LLC
5970 Fairview Road, Suite 800
Charlotte, North Carolina 28210

Defendant.

Case No.: 3:11-cv-405

JURY DEMAND REQUESTED

VERIFIED CIVIL COMPLAINT

(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

PLAINTIFF GINA SCHMITTAUER (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT PMAB, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Springfield, Clark County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in Charlotte, North Carolina.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places collection calls to Plaintiff.
11. Defendant frequently refuses to provide a proper company name when calling the Plaintiff.
12. Defendant frequently fails to disclose that it is a debt collector and is seeking information related to an alleged debt.

13. Defendant places excessive collection calls to Plaintiff in an attempt to collect on an alleged debt.
14. Plaintiff has received calls from Defendant up to 3-4 times per day.
15. Defendant places collection calls to Plaintiff from telephone number: 704-553-7146.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
 - b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
 - c. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity.
 - d. Defendant violated §1692e(11) of the FDCPA by failing to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector.

WHEREFORE, Plaintiff, GINA SCHMITTAUER, respectfully requests judgment be entered against Defendant, PMAB, LLC for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, GINA SCHMITTAUER, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville
J. DANIEL SCHARVILLE (0071132)
6200 Rockside Woods Blvd., Suite 215
Independence, Ohio 44131
Ph.: (216) 621-6101
Fax: (216) 621-6006
Attorney for the Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, GINA SCHMITTAUER, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, GINA SCHMITTAUER, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

11-11

Date


GINA SCHMITTAUER